

UNITED STATES DISTRICT COURT
for the
Eastern District of Michigan

United States of America

v.

Kevin BERRIOS-BENSON

Case No. Case: 2:22-mj-30431
Assigned To : Unassigned
Assign. Date : 10/6/2022
Description: CMP USA v. BERRIOS-BENSON
(SO)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of October 6, 2022 in the county of Macomb County in the
Eastern District of Michigan, the defendant(s) violated:

Code Section
18 U.S.C. Section 922(g)(1)

Offense Description
Felon in Possession of Ammunition

This criminal complaint is based on these facts:

See attached affidavit.

Continued on the attached sheet.

Sworn to before me and signed in my presence
and/or by reliable electronic means.

Date: October 6, 2022

City and state: Detroit, Michigan


Complainant's signature
Brett Brandon, ATF Special Agent
Printed name and title


Judge's signature
Jonathan J.C. Grey, United States Magistrate Judge
Printed name and title

AFFIDAVIT IN SUPPORT OF
AN CRIMINAL COMPLAINT

I, Brett J. Brandon, being first duly sworn, hereby state:

1. I have been a Special Agent with the Bureau of Alcohol, Tobacco, Firearms, and Explosives, United States Department of Justice, assigned to the Detroit Field Division since July 2013. I graduated from the Criminal Investigator Training Program and the ATF Special Agent Basic Training Program at the Federal Law Enforcement Training Center in Glynco, Georgia. During my employment with ATF, I have conducted and/or participated in numerous criminal investigations focused on firearms, drug trafficking violations, and criminal street gangs.

2. I make this affidavit from personal knowledge based on my participation in this investigation, including interviews conducted by myself and/or other law enforcement agents, communications with others who have personal knowledge of the events and circumstances described herein, and information gained through my training and experience.

3. ATF is currently conducting a criminal investigation concerning Kevin Taesean BERRIOS-BENSON (XX/XX/2003) for

violations of 18 U.S.C. § 922(g)(1) (Felon in Possession of Ammunition), among other potential state and federal criminal violations.

PROBABLE CAUSE

4. On August 16, 2022, BERRIOS-BENSON pleaded guilty in Michigan's Sixth Judicial Circuit Court to felony Carrying a Concealed Weapon. A sentencing date is currently set for October 13, 2022.

5. On October 5, 2022, the ATF obtained a sealed federal search warrant for BERRIOS-BENSON's residence located within the Eastern District of Michigan. He is currently on bond at the residence with the Michigan Department of Corrections for his pending Carrying a Concealed Weapon state case.

6. BERRIOS-BENSON was a person of interest, in part, based on a shooting incident that occurred in the early morning hours of September 18, 2022. While on bond from his state case, BERRIOS-BENSON was observed on surveillance footage, at an apartment complex, in possession of a firearm around 3:45 a.m. At that time, one of the several individuals BERRIOS-BENSON was with, shot a firearm in response to an unknown individual discharging a firearm in the area.

7. Days later, on September 21, 2022, BERRIOS-BENSON was observed in a video where agents were able to observe the outline of a “L” shaped bulge consistent with the slide and handle of a pistol in BERRIOS-BENSON’s right waistband area.

8. On October 6, 2022, the ATF and other law enforcement agencies executed the federal search warrant.

9. During the search warrant, the entry team encountered BERRIOS-BENSON and a female relative in the basement.

10. The ATF recovered the following items, among others, from the southwest basement bedroom, which BERRIOS-BENSON later identified as his bedroom: Forty-Six rounds of assorted .40 caliber ammunition, located inside a cardboard box under his bed, several of which bore the headstamp “WIN 40 S&W,” which evidenced that the ammunition was manufactured by Winchester;

11. The ATF recovered the following items, among others, from the southeast basement bedroom: Seven rounds of 10mm ammunition, several of which bore the headstamp “10MM AUTO *—*”, which evidenced that the ammunition was manufactured by Starline, recovered from inside a fifteen round Glock 10mm pistol magazine. The

pistol magazine was located under a white dresser at the foot of the bed and inside a Glock 20F 10mm pistol box bearing serial number "BVXX690".

12. I am aware, based on the ongoing investigation, that the serial number on the Glock 10mm pistol box matched the serial number of the gun involved in BERRIOS-BENSON's state case where he is awaiting sentencing.

13. While on scene, BERRIOS-BENSON participated in an audio-recorded post-*Miranda* interview. BERRIOS-BENSON acknowledged he understood his rights, voluntarily agreed to waive his rights, and in response to questioning, stated in summary and not verbatim, as follows:

- a. He pleaded guilty to a felony firearms charge;
- b. The southwest bedroom was his bedroom;
- c. He possessed and owned the .40 caliber ammunition located underneath his bed;
- d. He possessed and owned the 10mm ammunition located in the southwest basement bedroom;

- e. He possessed a 9mm pistol during the shooting incident that occurred within the city of Pontiac on September 18, 2022; and
- f. He denied shooting the firearm that night/early morning and could not recall the make or model of the pistol.

14. ATF Interstate Nexus Expert Special Agent Jimmie Pharr observed the ammunition and advised that it was ammunition as defined under 18 U.S.C. § 921 and manufactured outside of the state of Michigan, and therefore had traveled in and affected interstate commerce.

CONCLUSION

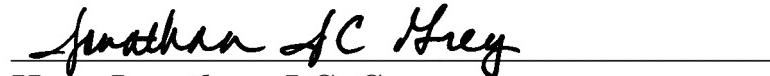
15. Probable cause exists that Kevin Taesean BERRIOS-BENSON (B/M; DOB: XX/XX/2003), a convicted felon aware of his felony conviction, did knowingly and intentionally possess ammunition that traveled in and affected interstate commerce, in violation of 18 U.S.C. § 922(g)(1), within the Eastern District of Michigan.

Respectfully Submitted,



Brett J. Brandon
ATF Special Agent

Sworn to before me and signed in my presence
and/or by reliable electronic means.



Hon. Jonathan J.C. Grey
United States Magistrate Judge

Dated: October 6, 2022